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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,822	09/12/2003	Huy Phan	2024729-7030922001	7042
7590	07/21/2005			
Bingham McCutchen, LLP Suite 1800 Three Embarcadero San Francisco, CA 94111-4067			EXAMINER GIBSON, ROY DEAN	
			ART UNIT	PAPER NUMBER
			3739	
DATE MAILED: 07/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/660,822

Applicant(s)

PHAN, HUY

Examiner

Roy D. Gibson

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 18-22 and 25-31 is/are rejected.
- 7) ☒ Claim(s) 11-17, 23 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/5/03 &amp; 12/27/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 7, 9, 10, 18-20 and 25-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Lennox (5,575,772).

As to claims 1-4, 6, 7, 9, 10, 14 and 18-20, Lennox discloses a medical probe (catheter) comprising an elongate member;

an operative element (ablation and/or sensing electrode) at the end of the elongate member;

a stabilizer secured to the end of the elongate member (vacuum cup and vacuum port system of Figure 17 and comprising a tube external to the operative element) to secure the operative element to the tissue; and wherein the operative element comprises an expandable-collapsible body (Figure 4, balloon # 22 as an example) having an interior wherein an electrode is located inside the balloon; a handle assembly (Figure 1) mounted to the proximal end of the elongate member having a steering mechanism via a pull wire (col. 4, lines 6-45, col. 6, lines 9-41 and lines 50-67).

As to claims 25-31, Lennox discloses a method of performing a medical procedure on a patient essentially as claimed wherein the target tissue is cardiac (organ) tissue or endocardial tissue (col. 1, line 56-col. 2, line 67).

### **Claim Rejections - 35 U.S.C. § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lennox in view of Hedge (US 2002/0188289). Lennox fails to disclose the balloon comprises a plurality of pores to permit ionic transfer from the interior of the balloon to the outside of the balloon. But, Hedge discloses a conductive expandable electrode body with ring electrode (430) connected to the RF wire (310) wherein the ring electrode transmits RF energy that is delivered to pulmonary vein tissue via ionic transport through the conductive inflation medium and conductive regions of the balloon body (400 and [0035]). Therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the device of Lennox, as taught by Hedge, to provide a plurality of pores in the balloon to permit transfer of RF energy by an alternative means of ionic transport.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lennox in view of McGee et al. (5,891,136). Lennox fails to disclose the operative element further comprises an electrically conductive shell disposed on the balloon. But, McGee et al. disclose a shell 24 comprises a thin sheet or foil 82 of electrically conductive metal affixed to the wall of the expandable-collapsible body 22.

Materials suitable for the foil include platinum, platinum/iridium, stainless steel, gold, or combinations or alloys of these materials. The foil 82 is shaped into a predetermined geometry matching the geometry of the expandable-collapsible body 22, when expanded, where the foil 82 is to be affixed. The geometry of the metal foil 82 can be accomplished using cold forming or deep drawing techniques (col. 17, lines 36-46). Therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the device of Lennox, as taught by McGee, to provide a conductive shell over the balloon to provide the advantages presented by McGee in col. 17, lines 50-61).

Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lennox in view of Kordis et al. Lennox fails to specifically disclose the medical probe comprises a sheath having a lumen through which the elongate member is slidably disposed. But, Kordis et al. disclose a mapping and ablation system wherein the catheter (22) is positioned in the heart via an introducer sheath (14) as is well known in the art (Figure 1 and [0053-0056]). Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art of medical catheters to utilize an

introducer sheath for the catheter of Lennox, to position the catheter in the treatment location in the heart.

### **Allowable Subject Matter**

Claims 1-17 and 23-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Conclusion**

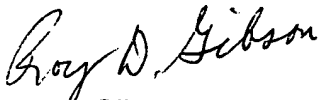
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on M-F, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/660,822  
Art Unit: 3739

Page 6

  
Roy D. Gibson  
Primary Examiner  
Art Unit 3739

July 18, 2005